

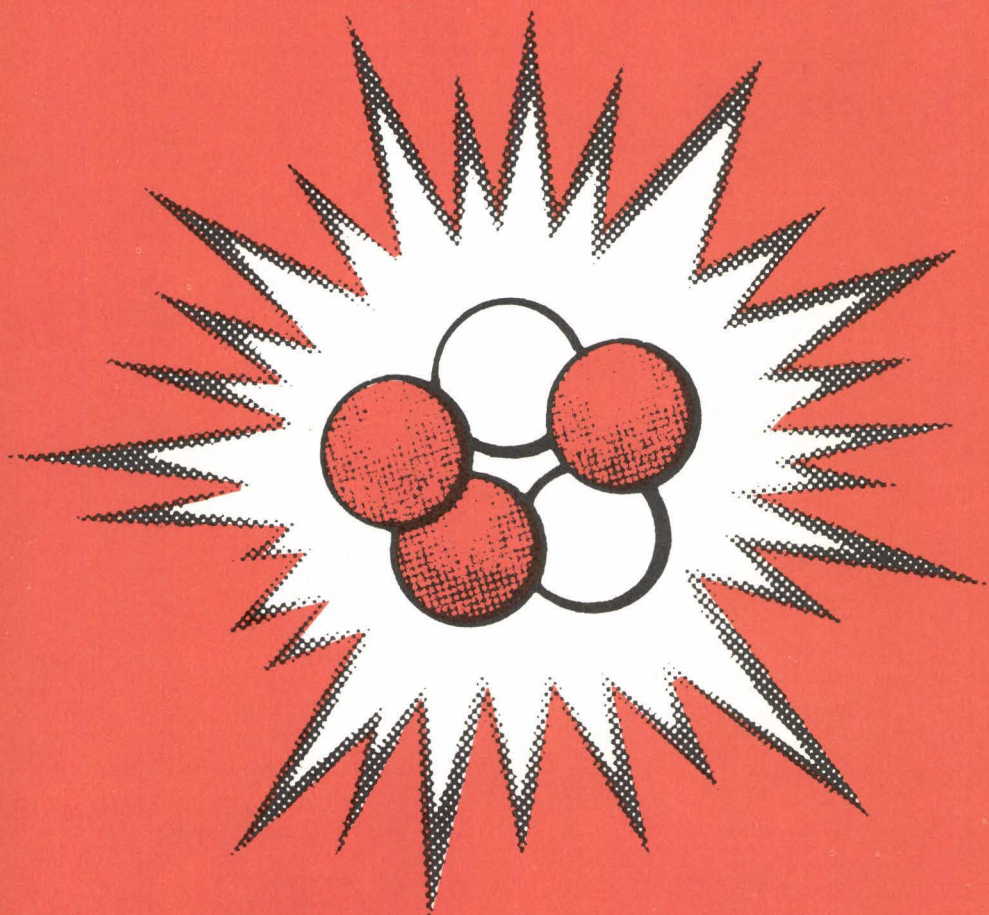
# European Community

No. 7

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## Fusing the atom





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## The Community in July

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July 17-20	European Parliament (Strasbourg)
July 23	Budget Council
July 23-24	Agriculture Council
July 23-24	Foreign Affairs Council



## Community thermonuclear fusion programme

**Dr Guido Brunner, member of the Commission in charge of energy, science, research and education, laid the foundation stone for the main experimental building of the Joint European Torus (JET) joint undertaking at Culham, Oxfordshire, on 18 May. The JET project represents a substantial part of the nuclear fusion research programme of the European Atomic Energy Community (EURATOM). The programme aims to develop nuclear fusion as a new source of energy for Europe.**

The JET joint undertaking was formally established on 1 June, 1978 by a decision of the Council of Ministers. Members of the joint undertaking include EURATOM, the Nine member countries of the EEC and Sweden (through their national laboratories where these exist). Switzerland is shortly expected to become a member. The decision to establish the JET joint undertaking followed the satisfactory completion of the design phase of the project (November 1973-May 1978) — the result of significant effort by the design team, the European Communities and the national fusion research organisations which provided staff and finance, and, together with industry, made scientific and technical experience available to the project.

The JET laboratory is expected to be completed and the JET experimental device assembled in 1982. The apparatus will be the most powerful of its kind in the world. The successful completion of the subsequent programme will assist in specifying the parameters of a fusion power reactor.

Dr Brunner made the following remarks at the Culham ceremony.

The implementation of the Joint European Torus (JET) project is the result of years of difficult negotiations. I am convinced that in many quarters this decision has restored confidence in the creativity of Europe's scientists and researchers and in the ability of Europeans to share their common future. We hope that some day this vital effort will significantly reduce the dependence of Europe on external energy supplies.

The Community has now charted its main course for energy policy over the coming years. There are encouraging developments in this area. But it is not all going to be plain sailing.

### **Dramatic situation today**

Let us consider today's dramatic situation in the energy field. Uncertainties and risks now face us in this sensitive sphere. Iran and the effects of Harrisburg illustrate the precarious nature of our energy circumstances.

The immediate difficulties arising from the Iranian crisis have illustrated all too clearly the urgency of the longer-term energy situation, and the dangers inherent in the Community's position. Iran stands for the ultimate demise of the oil economy.

Before the Iranian crisis, we thought that the limits of incremental world oil supply would be reached in the middle or late 1980's. On this basis, we had up to 10 years to diversify out of oil, and to build up the contribution from coal and nuclear. Now, the problem is even more pressing. Unless we can make radical inroads into our oil dependence in the next two or three years, we are going to face serious trouble. This will consist of physical constraints on the economy, and of rapidly increasing energy costs.

Harrisburg, on the other hand, means postponing the application of a potential and important alternative to oil as a form of energy. After Harrisburg we may not, to the extent we had planned, turn to conventional fission technology. Unrest has us in its grip again. There will be more delays. Unless we are very careful we will find ourselves tumbling into an energy gap whilst the base for new economic growth is being pulled from under our feet.

## Medium term difficulties

Thus, in the medium term, the scope on the energy supply side is limited. Coal production and consumption have been languishing since 1973. Neither in oil or gas production have we much room for manoeuvre in the next decade. So our priority now must be energy saving — particularly oil. That is why the recent community decisions to set limits on oil consumption in this year, and on oil imports in 1985, are so important.

It is essential that we implement strong practical measures, so that these limits are not broken.

## Hopeful future

In the longer term, however, in spite of all the uncertainties, the picture is more hopeful. Not only should we by then have put in place really solid energy savings programmes, but the scope on the supply side will be greater. Much depends on farsighted research and development work begun in this or even earlier decades.

Both at Community and national level, we have seen an increase in research and development work on the new forms of energy. It is vital that these abundant and clean sources are exploited to the full. Progress is encouraging, and major programmes are under way in the main fields of solar energy on a domestic and industrial scale, geothermal energy in specific areas, and on new uses for coal through gasification and liquefaction.

Although it may be prudent not to rely on these technologies for more than five or six per cent of our total energy demand in the year 2000, that share would represent an important contribution in

absolute terms — about equal to present day UK oil production from the North Sea.

## Nuclear fusion

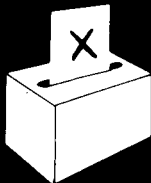
Nuclear fusion as a commercial reality is even longer term, but it requires intense efforts now. This brings me to the heart of today's proceedings: the fusion programme of the Community and JET.

The fusion programme is a long-term cooperative project. It embraces work carried out in the member States and in the States associated with the project. It is designed to lead in due course to the joint construction of prototypes with a view to their industrial-scale production and marketing.

The realisation of this objective depends on the outcome of much complex scientific and technological research. This task is certainly technically more difficult than putting a man on the moon and is clearly of more direct significance.

The main objectives of the thermonuclear fusion programme are the construction of JET and the preparation of the next step — the post-JET device. This involves the solution of several problems both in the field of physics and of fusion technology. Several intermediate-size devices, mainly of the tokamak type, each one designed to answer some specific question, will be operated in the associated laboratories. Thus JET, the flag ship of the Community programme, will be supported by a powerful fleet of specialised tokamaks.

The Community has established and maintained a position in the forefront of the world fusion programme in spite of the fact that the USA annual fusion budget is larger than the European one. The USSR budget is still larger. It is essential to maintain this competitiveness and with the completion of the JET machine the Community will have one of the most powerful experimental devices of this kind in the world. If JET is successful this will put the Community well along the path towards the solution of its energy problem.



# European elections

## The Irish and Danish results

Until the next wave of new members arrives from Southern Europe, Denmark and Ireland, together with the UK, are still often known as the 'new' member states, even after nearly seven years in the Community. The election results in these countries are of considerable interest as a gauge of their integration into the EEC.

### Major shocks in Ireland

**Matt Dempsey, farmer and journalist,** relates how the main parties fared and the success of two independents.

There is no doubt that the elections to the European Parliament in Ireland provided several shocks and some pleasant surprises. The overall turnout considering petrol shortages and postal strike problems was an excellent 63.6 per cent. Fianna Fail, the Government party which has a substantial overall majority of 84 seats in the 148 seat Dail (the Irish Parliament) took only five seats out of the 15 allocated to Ireland with 34.86 per cent of the vote cast.

The main opposition party Fine Gael,



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linked with the Christian Democrats, improved its 1977 General Election performance and achieved 33.13 per cent of the total votes cast. However, despite the high poll, it ended up with only four seats.

A real surprise was the success of the Irish Labour Party. With only 14.4 per cent of the vote they achieved 26 per cent of the 15 seats to give them the same total of four. The Labour Party is a member of the European Parliament's Socialist Group.

Another surprise was the strength of two Independents. First Neil Blaney who was sacked from his post as Agricultural Minister in 1969 and from the Fianna Fail Party in 1970, and has sat as an Independent in the Dail since then. Representing the old Republican ideals of Fianna Fail he comes from the Northern border county of Donegal. It was always thought that his base and appeal was localised and narrow, but in the straggling Northern and Western constituency of Connacht/Ulster, Blaney achieved a remarkable 81,522 votes, enough to get him elected on the first count, one of only three candidates in the country to be elected so convincingly.

The other successful independent T. J. Maher also ran as a non-party candidate in the predominantly farming oriented five seat constituency of Munster. A former chief of the main Irish farming organisation and currently head of the agricultural cooperatives body, achieved a remarkable 86,208 first preference votes, far ahead of the 71,666 votes necessary for election. Mr. Maher's election severely dented the support that could have been expected by both Fianna Fail and Fine Gael.

He will have a close ally in the last of the three most convincingly elected candidates — Mark Clinton elected in the three seat Leinster constituency. A former Minister for Agriculture in the 1973-1977 Fine Gael/Labour coalition Government, Mark Clinton will probably be the leader of the Fine Gael group within the Christian Democrats group.

All of these three personalities, whilst of different political parties, share a very strong agricultural connection and base. All three are inherently traditional in their moral outlook in a still traditionally religious country. There is no doubt that all three will see their role within the new European Parliament as working to the full to further the agricultural and regional interests of Ireland.

The other leading personality to be elected was Labour Party member Dr John O'Connell. He was the first to be elected in the Dublin constituency though not until the eighth count. Always a slight maverick within the party, Dr O'Connell represents within the Dail an immense working-class constituency to the west of Dublin. His constituency backed him solidly and the support was widened by an intensive campaign.

He will sit very comfortably on the Socialist benches. A man with an enormous capacity for hard work, his success will be viewed by his Labour colleagues in the Dail with a mixture of admiration and irritation.

With their best personalities in the Government, Fianna Fail was not presenting its first team, but whatever the excuses, the results came as a nasty shock to the leadership.

In the new Parliament, Fianna Fail will probably continue to sit with the French Gaullists in the EPD group.



# Anti-marketeers set the pace in Denmark

**Leif Beck Fallersen, political scientist and radio journalist, reports from Denmark.**

The new European Parliament has been given only a qualified mandate by the Danes. Less than half — 46.8 per cent — voted in the first direct elections, and the most spectacular result was undoubtedly the success of the anti-marketeers.

The so-called Popular Movement against the EEC (Folkebevægelsen mod EF) won four of the 16 Danish seats, campaigning for a new referendum in Denmark, and a subsequent withdrawal from the Community. The allied Socialist People's Party won one seat, giving the anti-marketeers a total of five, six if the member for Greenland joins the Popular Movement.

In stark contrast to the success of the Popular Movement, the Social Democrats fared very badly. The party won only three seats, barely maintaining its position as the largest single party, with the technicalities of the electoral alliances giving it one seat less than the Popular Movement.

The Liberal-Conservative Alliance did better than expected, winning six seats (Liberals three, Conservatives two, Centre Democrats one). The anti-tax party of Mr. Glistrup (Progressive Democrats) also had difficulty in mustering its supporters winning only a single seat.

Several factors contributed to the surprisingly poor showing of the Social Democrats. The party was more or less evenly divided on the EEC issue at the electoral level at the time of the referendum in 1972, but it was generally expected that the vast majority of Social Democrat voters have by now accepted EEC membership. The Social Democratic platform was accordingly defined in no-nonsense pro-EEC terms, and former opponents of EEC membership openly campaigned on this platform.

But as opinion polls showed increasing support for the Popular Movement against the EEC, Social Democratic party discipline faltered, and in the last crucial weeks some of the former opponents of

EEC membership reverted to 'EEC scepticism', leaving the party with a blurred profile and a disorganised campaign.

First analyses indicate that most rank-and-file Social Democrats have not changed their attitudes towards the EEC since 1972, i.e. the party remains fairly evenly divided. But, not wanting to vote against their own party, many seem to have reacted to this cross-pressure situation in a typical way, by staying away from the polls.

The same analyses show that about a quarter of the votes for the Popular Movement against the EEC were cast by Social Democrats. This group seems to have decided that they could afford to vote against their party, because it would have no national repercussions, at least not directly.

But the real problem for the Social Democrats, indeed for all supporters of the EEC, was that the ability of the anti-marketeers to define the issues of the campaign was never successfully challenged.



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Political union became a key issue in the campaign, the word 'union' sounding far more ominous in Danish than in other European languages. Every suggestion of the Tindemans Report was presented as an accepted goal of the EEC, the implementation being a mere matter of time. The report as such was given a prominence that will surprise Mr Tindemans more than anyone else. He would also be gratified, had the intention been to foster a constructive debate. That was not the intention,

Responsibility for all the economic woes of the 1970s were laid at the door of the EEC, and the whole campaign of the anti-marketeers was so highly emotional, that it also appealed to the traditional anti-establishment sentiment of the young.

Pro-EEC candidates were in the unenviable tactical position of having to spend a lot of energy saying what the EEC is *not*, and what it should *not* become, rather than what they believed the EEC, and the European Parliament, *should* be.

Anti-marketeers also made the most of the fact that Social Democrats accepting candidatures for the Popular Movement were excluded from the party. One of these excluded candidates was elected to the parliament.

The Popular Movement against the EEC remains a medley of political parties and anti-marketeer groups. The Communist Party fielded its candidates on the Popular Movement list, the only party to do so, and one — the editor and founder of the anti-EEC magazine *Det ny Notat* — was elected. The question of how much influence the Communists have in the Popular Movement was hotly debated during the campaign, and is hardly resolved. But now the focus of interest is what the Popular Movement will actually do in the European Parliament. Conflicts may arise when members have to choose between a purely passive role and the normal working of a democratic parliament.

Greenland provides the last Danish Euro-MP, and a special challenge to the new parliament. The winner in Greenland, with a total of 5,000 votes, is

Mr. Finn Lynge, who trained as a Catholic priest and is head of Greenland Radio. At the time of writing he had not committed himself to join the anti-marketeers, but he did consider the result a popular rejection of EEC membership. And he promised to demand a new referendum in 1982, when the present special arrangement expires. The losing, pro-EEC candidate, also considered the result a first step away from the EEC, though stressing that there were in fact more pro-EEC votes than in 1972.

Danish membership of the EEC will remain a political issue for the coming five years. That is perhaps the most important implication of the direct elections in Denmark. But there is very little likelihood that there will be a new referendum. More than two thirds of the votes were cast for pro-EEC candidates, and many well-known Danish politicians are now Euro-MPs, among them four former cabinet ministers — Social Democrats Kjeld Olesen and Eva Gredal, Conservative Poul Moeller and Liberal Tove Nielsen. Centre Democrat Erhard Jacobsen will also be in the new parliament, with one of the highest personal votes.



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## Have we reached a turning point?

**Dr Guido NAETS, who is Brussels correspondent for the German publication 'Agra Europe', gives his personal view of the Common Agricultural Policy (CAP) today.**

When the common agricultural policy — entailing *uniform prices, Community preference* and *financial solidarity* — was completed in 1967-68, after a five-year transitional period and considerable intellectual and even physical efforts, there was no doubt that the Community had produced a masterpiece. In twenty years the Benelux countries had failed to pool their farm economies, and yet six widely divergent countries had at last succeeded in forging a single policy on food production and trade. Agriculture, which for centuries had provided food and fodder for the warring armies of

Europe and indeed, from the ranks of the farmers and farm workers, the armies themselves, had become the symbol of European unity. And agriculture was the only field in which a genuine Community policy had been developed in the EEC.

### Galloping production

The policy entailed a large budget. It helped generate a demand for economic and monetary union (EMU), since it was feared that without the union price unity would soon be distorted and the handsome farm policy structure would collapse. But no EMU was achieved. The member States were reluctant to let control over their national agricultural policies slip out of their hands, and with all kinds of measures designed to distort competition, they vied among themselves in efforts to trick their neighbours out of ever larger shares of the Community



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agricultural market. Restraint of overcapacity? — that was a problem for the other countries. Production steadily expanded, while the consumption of farm produce, in a well-fed continent, tended inevitably to mark time. The unlimited financing of surpluses under CAP cost the Community ever larger sums.

Measures to curb expanding production failed almost before they had been got through the Council of Ministers. When prices were lowered (or raised less than inflation) the farmers simply worked harder to offset prospective losses. Technical improvements also boosted productivity. Production losses due to cessation of farming by older farmers were more than made good by the expansion of production capacity by those still on the land. And the more the Community production incentives were reduced, the more the member States 'restored' the situation through their own agriculture budgets.

## Monetary instability

The collapse, at the turn of the decade, of the stable exchange rate relationship which had previously obtained in the Community

served only to aggravate the situation. Through the introduction of a monetary compensatory amounts system, a political instrument was created to curb the adjustment of agricultural prices to the changed relationships between the values of the currencies. Where a currency had gained in strength, 'positive MCAs' could be used to offset to an unlimited degree the reduction in common agricultural prices when expressed in that currency, so that at any rate in theory farm producers received more for their products. Conversely, where a country's currency depreciated, 'negative MCAs' could be used to offset indefinitely the higher prices in national currency which consumers in that country would otherwise have had to pay if the effects of the devaluation had been allowed to work through without restriction.

The MCA transfers, which cost the agricultural fund (EAGGF) thousands of millions of units of account every year, are in effect consumer subsidies to the United Kingdom, although they are recorded as export subsidies chargeable to other countries.



## Future Finance

Since the Community's financial resources (customs duties, agricultural levies and up to 1 per cent of the VAT basis of assessment) will be exhausted in 1981 or 1982 by the present policy, the Community faces a choice: either that of finding new sources of income, which is an unwelcome development for the member States, since they prefer to spend their own money themselves, or that of developing no new European policies, only current business, which will condemn the elected Parliament to a largely superfluous role, or that of curbing agricultural expenditure. Both within the Council and within the commission, there seems to be a consensus that the last option is the only realistic one. And this means that the Common agricultural policy is to be downgraded in the hierarchy of policies and that the door is open to unwanted or even harmful developments. In particular, there will then be the threat of a faster depopulation of the rural areas, the pauperization of a large proportion of the farming population and a sharp increase in unemployment. The consequences of this will then be felt within the individual countries and costs will have to be met (for example, unemployment benefits) which will far exceed the sums the member States are at present spending on the Community agricultural policy through the European agricultural fund.

There is a grave danger that strong pressure will come from the directly elected Parliament to cut back spending under the agricultural policy in what it believes to be the interests of the consumer. The voice of the farming community and the rural community in general will be barely audible in the new Parliament. In most countries and political parties, representatives of this non-urban world are few in number and find it hard to get a hearing. A large majority of the Parliament is likely to be hostile to the agricultural policy or at least not to understand it. The louder the voice of Parliament in the Council of Ministers and in the Commission in Brussels, the

faster the current policy will be diverted towards a new approach, and this could well lead to serious strain between the

This consideration and this threat should induce the farmers to show moderation in the 1979/80 season. In this way they can begin to win the confidence of those who will have an ever greater say in the future in the policies being implemented, particularly agriculture. Hence the enormous importance of a two-way flow of reliable information for non-farmers, about agriculture and agricultural policy, and for the farming community, about the mood and convictions of the rest of society.



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# Greece — The tenth Community member

**Greece will join the European Community as its tenth member on 1 January 1981. The Treaty of Accession was signed in the Zappeion palace in Athens on 28 May.**

Greece, with a population of just over nine million, is a comparatively poor country by Community standards; about a third of its people is engaged in agriculture. It obviously faces problems in integrating into the Community economy, and it has taken three years of negotiation to devise solutions.

Vice-President Natali, the European Commissioner responsible for handling the negotiations, remarked on their conclusion that Greek entry was a first step in altering the North-South balance in the Community, which hitherto, he noted, had been weighted in favour of the North.

With Spain and Portugal waiting in the wings to join the Community in the 1980s, the terms that have been negotiated with Greece are of particular interest. A five to seven year transitional period aims to ensure gradual adaptation of the Greek economy, while a financial mechanism has been devised to protect Greece from becoming a net contributor to, rather than a beneficiary of the Community in the first few years of membership.

## The basis of agreement

Subject to transitional measures, Greece has agreed to accept what is known as the '*acquis communautaire*', that is the treaties and secondary legislation already adopted by the Community to date. On the basis of these principles Greece will have a five year transitional period to adjust to the bulk of Community

requirements, with an extension to seven years for certain agricultural products. Freedom of movement of workers within the enlarged Community will be achieved by the end of the seven year period.

## Customs union and external relations

Greece has had an Association Agreement with the European Community since 1962, though this was suspended during the junta period. She has already started to adapt to the Community customs union and, since 1974, with the exception of ECSC products (coal and steel), approximately two-thirds of the Community's industrial exports to Greece have been duty-free, while Greece has adopted the Community's common external tariff (CET) for the same products with regard to third countries. Apart from coal and steel, Greek industrial exports have entered the Community duty-free.

Under the new arrangements there will be a five year transitional period for the complete elimination of all Greek tariffs on industrial goods from the Community. Greece will accordingly reduce existing tariffs by 10 per cent on 1 January 1981, followed by five annual reductions, so that all tariffs will be eliminated by 1 January 1986. Tariffs on steel products will similarly be eliminated during the transitional period, and alignment with the CET will follow the same timetable. Quantitative restrictions will be abolished immediately on accession except for 14 industrial products for which Greece has requested extra protection during the transitional period. The quotas will be raised in five annual steps so that imports

are completely liberalised by the end of the five-year period.

Greece has also agreed to adopt the system of generalised preferences and the multi-fibre arrangement for textiles by the end of the transitional period.

## Agriculture

The full application of the Common Agricultural Policy (CAP) will not come into force until the end of the five year period, with a further two year extension for fresh and processed tomatoes and fresh and preserved peaches. For Greek products such as durum wheat, processed fruit and vegetables, as well as olive oil, where prices are significantly lower than Community prices, full price support and income subsidies under the CAP will be gradually phased in over the five year period. Producers of cotton, dried figs and raisins will benefit from deficiency payments. Meanwhile, to avoid abrupt changes in Greek producer costs or in prices, Greece will gradually phase out existing national state subsidies, chiefly on fertilisers and live-stock rearing. She will also eliminate all restrictions on Community agricultural products.

## Social Affairs

Although there will be restrictions on the free movement of workers until the end of the seven-year period, Greek workers already legally employed in any Community country will enjoy full social benefits immediately on accession. These will also be extended to their families three years later.

## Finance

From the date of accession Greece will contribute to the Community's own resources system of financing and budget through customs and agricultural levies and a proportion of VAT. But in order to prevent her from becoming a net contributor to the Budget rather than a beneficiary, it was agreed to set up a special mechanism during the five-year transitional period with regard to the GNP/VAT element of own resources.

From 1 January 1981 and throughout the transitional period the amounts

accruing from VAT or from a financial contribution based upon the gross national product (GNP) will be paid in full. The Community, however, will refund to Greece a proportion of the amount paid ranging from 70 per cent in 1981 to 10 per cent in 1985. In the field of taxation, Greece has been granted a three-year delay in implementing the Community's Sixth Directive relating to the common system of VAT.

The Commission estimates that, with the application of the special mechanism, and on the basis of a hypothetical 1979 budget, Greece's net benefit from the Community budget will amount to about £54m in 1981.

## Institutions

Greece will, like Belgium and the Netherlands, have five votes in the Council of Ministers. She will also have one Commissioner, one Judge in the European Court of Justice, and one representative on the Board of Governors of the European Investment Bank. She will have 24 MPs in the European Parliament, and 12 members of the Economic and Social Committee. She will participate fully in these and the other community bodies as from the date of accession. As with UK accession in 1973, a procedure has also been worked out to ensure mutual consultation on policy decisions between now and accession.



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# Misleading and unfair advertising

## Giles Shaw MP, criticizes the Commission draft directive on misleading and unfair advertising.

The directive in its present form requires the adoption of laws against misleading and unfair advertising and enables court action to be taken. It also makes specific recommendations as to how these laws are to be implemented. I certainly agree that the consumer must be protected from misleading and unfair advertising (although there is precious little evidence that the consumer is seriously at risk), but do not agree with the means proposed in the directive. A system has been built up in Britain which costs little and has proved most acceptable. We do not want to see it over-thrown for the sake of a general objective to harmonise protection against misleading advertising throughout Europe. Indeed harmonisation of advertising practices is stretching the remit of the Commission unnecessarily, for in the UK the consumer is protected against misleading advertisements by a wide range of statutes, the most important of which is the Trade Descriptions Act 1968.

Broadcast media are controlled by the Independent Broadcasting Authority with a statutory obligation to vet advertising. Alongside this legislative protection, the advertising industry (advertisers, their agencies and media) maintains its own system of self-regulation based on the principle that all advertisements should be 'legal, decent, honest and truthful'. This principle is elaborated in the British Code of Advertising Practice. The body which implements the industry's commitment of self-regulation is controlled by the Advertising Standards Authority, an organisation set up and financed by the industry under an independent Chairman and Council. This process is further strengthened by some 60 statutes each

covering aspects of advertising. The law is used to provide the necessary back-up if the administrative control should fail to be completely effective.

That this system is effective has been amply demonstrated by the review of the Office of Fair Trading, which having commissioned research to gauge the extent to which advertisements conform to the self-regulatory code of practice, reported that 'the results indicate that the vast majority (93 per cent) of advertisements in newspapers and magazines conform to the code'.

This is an astonishing statistic, bearing in mind the vast numbers of different advertisements which are printed each day and each week throughout the UK.

The Director-General of the Office of Fair Trading believes that the self-regulatory system is valuable and should be built upon.

Research has produced no real evidence to suggest that the public is being misled or confused by advertising on a wide scale. Indeed, Mr. Gordon Borrie, Director-General of OFT said 'it suggests strongly that, with a general tightening up and the limited statutory backing proposed, the self-regulatory system should provide adequate protection for consumers'.

I recognise that there may be circumstances in which current self-regulatory procedures can be shown to be weak. There will always be rogue advertisers and in particular those who fail to observe the spirit of the voluntary code. This is the view of the National Consumer Council also. However, I believe that the advertising industry itself recognises that some additional power

might help its code of practice and self-regulatory system to improve and thus be more speedy and effective to the consumer.

I believe that it is infinitely preferable for some additional power to be given, say to the Office of Fair Trading, to provide a legal back-up to the self-regulatory system, than to endorse that constrictive legal system proposed under this EEC directive.

What these additional powers should be is a matter for discussion. But the Commission must recognise that what is proposed in the directive is not acceptable. Not because we do not share the Commission's aims and general objectives, but because in the UK we have a system that has been demonstrated to work effectively and is well established.

The other main claim which the Commission has made for this directive is that misleading advertising and unfair advertising are improper ways of influencing the market processes. But there is little evidence that advertising

campaigns are developed with the prime object of crossing individual frontiers.

It may be necessary in certain markets of the Community to introduce a legislative framework for advertising control to prevent consumers from being exploited. This is not the position in the UK market. We have an effective self-regulatory system that is financed by the industry. In practice, the provisions of law are more likely to be knowingly flouted than an accepted code of practice operated according to its spirit.

As the directive stands it ignores the accepted concept advanced by the President of the Commission, Mr. Roy Jenkins, when he said that the Commission 'does not believe in harmonization for harmonization's sake'. In the context of the advertising directive he added an important point — that the Commission 'should not seek to include unnecessary detail' but should 'rather . . . lay down the primary objectives to be obtained and leave the detailed implementation to individual member States'.

## The Commission replies

It is important to understand the potential impact of the directive in the UK. At present, television and radio advertising is under statutory control. Within that framework of law, a self-regulatory system operates. The independent TV companies vet the acceptability of advertisements before transmission. They do so with reference to the Independent Broadcasting Authority's Code of Advertising Standards & Practice. If the IBA failed to fulfil its statutory responsibilities, for example because it did not apply reasonable standards, then the consumer could take the issue to court. He would probably need the prior consent of the Attorney General, but this need not be an obstacle in a proper case.

No general statutory framework exists to control advertising in the press. Specific aspects are controlled under a multiplicity of legislative measures. The lack of a general test for misleading advertising, such as that proposed by the directive, is

considered by consumers to be an unfortunate gap in the law.

Nevertheless, Mr Shaw says the self-regulatory arrangements which apply to press advertisements are effective. He quotes the recent OFT report indicating that 93 per cent of advertisements in newspapers and magazines conform to the Code of Advertising Practice. The OFT survey was based on a sample of about 3,000 advertisements. However, approximately 30,000,000 advertisements are published in the press each year in the UK. If 7 per cent fail to conform to the Code, it follows that some 2,000,000 infringing advertisements are published each year.

This is not to say that the Advertising Standards Authority, set up and financed by the advertising industry, fails to do its job. On the contrary, it does a good job. However, that is not the point. The question is what is to be done about the misleading advertisements which escape





the net? Should they be allowed to continue in circulation? After all, they represent only 7 per cent of the total number of advertisements published annually. Surely, the answer must be no.

Take an analogy. Each year, millions of words are published in the press. Very few are defamatory. This certainly does not lead to the conclusion that there is no need for the law of libel. Would Mr Shaw accept that newspaper and magazine publishers should be free of any responsibility for defamatory statements merely because they take great trouble — and most of them do — to avoid defamation?

However, the whole question of the proportion of misleading advertisements is something of a red herring. The Commission does not wish to see the end of the self-regulatory system in the UK. Like the former Secretary of State for Prices & Consumer Protection and the Director-General of the Office of Fair Trading, it sees the value of a legal framework in this area. Mr Shaw appears to accept this view too. As he points out, the form which these measures take is a matter for discussion.

As to the evidence of advertising campaigns 'developed with the prime object of crossing individual frontiers', it is worth quoting Mr Michael Morris MP. In the Commons' debate on the proposed directive he said: 'Several hon. members

*The Commission sent the draft Directive to the Council in February 1978. Since then, it has been welcomed by the European Consumer Law Group of the European Bureau of the Consumers' Union (BEUC) and by the European Parliament, which has proposed a number of amendments. The Economic and Social Committee has also submitted detailed comments.*

*The Commission has recently modified its proposals to take account of these views.*

made the point that international advertising is now a feature of today's world. With respect, that is not entirely true. There is an increasing incidence of campaigns being created in one country. Admittedly, they are put into another language, but the basic copy point is kept common, and the basic message is quite often kept common. I think that we shall see this developing over the next few years. It is not something that is declining. We should not delude ourselves that there are not pan-European campaigns, because there are.'

Whatever 'the prime object' of an advertising campaign the fact is that advertisements do cross frontiers. Think of the advertisements which do so in magazines and newspapers. Think of the commercial radio broadcasts to the UK by Radio Luxembourg or TV advertising in Belgium — a country which has no indigenous commercial TV, but receives advertisements broadcast by French, German or Dutch stations either direct or via cable. With the advent of transmissions via satellite in the 1980s, TV advertising will become less and less a respecter of frontiers.

The directive is not harmonisation for harmonisation's sake. It recognizes the value of a common approach to misleading and unfair advertising in the common market.